

DOCKET FILE COPY ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Advanced Television Systems)
and Their Impact upon the) MM Docket No. 87-268
Existing Television Broadcast)
Service)

RECEIVED
DEC 17 1997
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

To: The Commission

COMMENTS OF APCO
IN RESPONSE TO
EX PARTE FILINGS ADDRESSING DIGITAL TV ALLOTMENTS

The Association of Public-Safety Communications Officials-International, Inc. (APCO) hereby submits the following comments in response to the Commission's Public Notice, dated December 2, 1997, requesting comments regarding an "*Ex Parte* Submission Based on New Technical Discoveries to Help the Commission Improve the DTV Table of Allotments/Assignments" submitted by the Association for Maximum Service Television, Inc. ("MSTV") and other broadcasters on November 20, 1997, in the above-captioned proceeding.

APCO is the nation's oldest and largest public safety communications organization, with over 13,000 members involved in the management and operation of law enforcement, fire, emergency medical, and other vital public safety communications systems. APCO is the FCC's certified frequency coordinator for the Part 90 Police Radio Service, Local Government Radio service, and for all 800 MHz public safety channels. APCO filed comments and reply comments at earlier stages of this proceeding, and filed a Petition for Partial Reconsideration of the Sixth Report and Order on June 13, 1997.

029

APCO's Petition seeks reconsideration of the allotment of fifteen (15) DTV allotments in channels 60-69. Four of those DTV allotments are on channels 63, 64, 68, or 69, the specific channels that are proposed for reallocation to public safety in ET Docket 97-157, and four additional DTV allotments are on adjacent channels (62, 65, and 67).

MSTV has now submitted yet another DTV channel allotment plan, containing a total of 47 DTV allotments on channels 60-69, including 16 DTV allotments on channels 63, 64, 68, and 69, which is 12 more than the Commission approved in the Sixth Report and Order. There are also eleven additional DTV allotments proposed by MSTV for the adjacent channels. These additional co-channel and adjacent channel DTV allotments would cause significant reductions in the availability of spectrum for public safety in channels 60-69, often in major metropolitan areas. The only positive aspect of the MSTV plan is that it eliminates DTV allotments on channels 68 and 69 in Los Angeles, which had been a glaring flaw in the allotment plan approved in the Sixth Report and Order. Therefore, APCO urges the Commission to reject the MSTV proposal, except insofar as it eliminates channel 68 and 69 DTV allotments in Los Angeles. The geographic isolation of Los Angeles should allow the MSTV plan to be adopted at least in part in Southern California, without requiring its adoption in other portions of the nation.

The MSTV plan would add 16 DTV allotments on channels 63, 64, 68, and 69, compared to 4 allotments on those channels in the Sixth Report and Order. Moreover, many of those new allotments would impact major metropolitan areas where use of those channels is already partially blocked by analog stations, and where public safety has the most severe spectrum shortages. The following is a summary of the metropolitan areas facing the most significant problems from the MSTV plan. These are all new impediments

to public safety use, above and beyond those caused by existing analog stations. In each case, the new proposed DTV allotments block use of spectrum that would otherwise be available immediately for public safety operations.¹

<u>Metro Area</u>	<u>New MSTV Co-channel Allotments</u>	<u>New MSTV Adjacent Allotments</u>
Baltimore/Washington	69 (Baltimore) 63 (Frederick) 68 (Wilmington)	65 (Baltimore)
New York	64 (Newark)	
Boston/RI/Conn	63 (Manchester) 63 (Hartford) 68 (Hartford)	65 (Marlborough) 67 (New Bedford)
Philadelphia	64 (Lancaster) 64 (Newark) 68 (Wilmington) 69 (Baltimore)	67 (Allentown)
Cleveland	63 (Canton)	
Pittsburgh	64 (Pittsburgh)	62 (Pittsburgh)
Milwaukee	63 (Fond du Lac)	

¹ APCO also opposes the MSTV proposal to add DTV allotments on channels 14-21 (470-518 MHz) where that would involve substantial reductions in the adjacent channel or co-channel protection for existing 470-512 MHz public safety operations. Of particular concern are proposed new DTV allotments on channel 21 in Los Angeles and channel 19 in Washington, which are extremely short-spaced to existing public safety land mobile allocations (25.3 km in Los Angeles and 9.6 km in Washington). See Comments of Motorola.

Chicago	65 (Joliet)
Detroit	65 (Detroit)
	67 (Toledo)
Sacramento	67 (Sacramento)

MSTV makes the absurd claim in its *Ex Parte* Submission, at page 9, that these “additional assignments in channels 60-69 will have little impact on the availability of spectrum for public safety services because they are in congested areas in which the operation of public safety services will necessarily be limited by existing NTSC stations even if the DTV Table were allotted as-is.” However, if a full power DTV broadcast station can use the channel in question, then so could public safety! MSTV’s proposed use of a channel for DTV demonstrates that the channel is not entirely encumbered by analog stations in the relevant area, and thus would otherwise be available for immediate reallocation and use by public safety. Indeed, in some cases the new proposed DTV allotment occupies the only available channel. MSTV also incorrectly assumes that just because some of the 24 MHz allocated for public safety may be encumbered by NTSC stations in a particular area, none of the 24 MHz will be used until the end of the DTV transition. In fact, public safety spectrum needs are such that any available spectrum allocated for its use will in fact be used as soon as possible. While public safety would obviously prefer that the band be cleared immediately, it recognizes that it in the short run it will need to work around NTSC stations in certain areas. What public safety opposes is

any effort to exacerbate an already difficult situation by adding new impediments in the form of DTV allotments on, or adjacent to, channels allocated for public safety.²

Approval of MSTV's proposed additions to the DTV table allotments would undermine the express and unmistakable intent of Congress that the Commission make 24 MHz of spectrum available for public safety use on a nationwide basis as soon as possible. The Balanced Budget Act of 1997 requires the Commission to allocate 24 MHz of spectrum from channels 60-69 (746-806 MHz) for public safety no later than December 31, 1997, and also requires the Commission to commence licensing of the new public safety spectrum no later than September 30, 1998.³ The Commission's ability to license the new spectrum will be impeded to the extent that it adds new broadcast stations in channels 60-69. While the existing analog stations already provide such an impediment in some areas, that cannot be avoided (at least for now) and was fully anticipated by Congress. Adding new broadcast stations, however, is an entirely different matter. Therefore, consistent with Congressional intent and its own desire to allocate spectrum for public safety, the Commission must reject the MSTV plan (except insofar as it eliminates allotments on channels 68 and 69 in Los Angeles).

²To the limited extent that the Commission deems it absolutely necessary to maintain or add DTV allotments on channels 60-69, it must do so on channels that are not on or adjacent to channels allocated for public safety. However, other than avoiding channel 69 (which faces adjacent channel issues with existing 806 MHz land mobile operations), it does not appear that the MSTV proposal attempts to avoid use of the specific channels to be allocated for public safety (i.e., channels 63, 64, 68, and 69).

³ Section 337(b)(1) of the Communications Act, 47 U.S.C. §337(b)(1), as added by the Balanced Budget Act of 1997, § 3004.

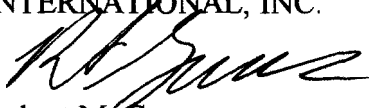
CONCLUSION

For the reasons discussed above, APCO strongly opposes MSTV's proposed additions to the DTV table of allotments for channels 60-69, but supports MSTV's proposed elimination of DTV allotments on channels 68 and 69 in Los Angeles.

Respectfully submitted,

ASSOCIATION OF PUBLIC-SAFETY
COMMUNICATIONS OFFICIALS-
INTERNATIONAL, INC.

By:



Robert M. Gurss
WILKES, ARTIS, HEDRICK & LANE,
Chartered
1666 K Street, N.W. #1100
Washington, D.C. 20006
(202) 457-7329

December 17, 1997

Doc #68358